

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Proposing rule making related to required reports of misconduct and providing an opportunity for public comment

The Educational Examiners Board hereby proposes to amend Chapter 11, “Complaints, Investigations, Contested Case Hearings,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2019 Iowa Acts, House File 637.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 637.

Purpose and Summary

The proposed amendment is intended to implement 2019 Iowa Acts, House File 637, which states that required reports of misconduct under Iowa Code section 272.15 shall be submitted within 30 days of the disciplinary action or awareness of misconduct that necessitated the report. The Board’s administrative rules currently have a 60-day timeline for the reporting of disqualifying criminal convictions and no required timeline for reporting of disciplinary actions based on the four behavior areas enumerated in Iowa Code section 272.15(1)“a”(1). The proposed amendment provides a clear 30-day timeline for all required reports of misconduct to the Board.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

No waivers of the 30-day timeline are allowed because the timeline is required by statute pursuant to 2019 Iowa Acts, House File 637.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on August 23, 2019. Comments should be directed to:

Kimberly Cunningham
Board of Educational Examiners
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319-0147
Fax: 515.281.7669
Email: kim.cunningham@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

August 21, 2019
1 p.m.

Room 3 Southwest
Grimes State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend rule 282—11.37(272) as follows:

282—11.37(272) Mandatory reporting of contract nonrenewal or termination or resignation based on allegations of misconduct. The board of directors of a school district or area education agency, the superintendent of a school district or the chief administrator of an area education agency, and the authorities in charge of a nonpublic school shall report to the board any instance of disciplinary action taken against a person who holds a license, certificate, or authorization issued by the board for conduct that would constitute a violation of 282—subparagraph 25.3(1)“e”(4), subrule 25.3(2), paragraph 25.3(3)“e,” or paragraph 25.3(4)“b.” In addition, the board of directors of a school district or area education agency, the superintendent of a school district or the chief administrator of an area education agency, and the authorities in charge of a nonpublic school shall report to the board the nonrenewal or termination, for reasons of alleged or actual misconduct, of a person's contract executed under Iowa Code sections 279.12, 279.13, 279.15 through 279.24, 279.16, 279.18 through 279.21, 279.23, and 279.24, and the resignation of a person who holds a license, certificate, or authorization issued by the board as a result of or following an incident or allegation of misconduct that, if proven, would constitute a violation of 282—subparagraph 25.3(1)“b”(1), subparagraph 25.3(1)“e”(4), subrule 25.3(2), paragraph 25.3(3)“e,” or paragraph 25.3(4)“b,” when the board or reporting official has a good-faith belief that the incident occurred or the allegation is true.

11.37(1) Method of reporting. The report required by this rule may be made by completion and filing of the complaint form described in subrule 11.4(2) or by the submission of a letter to the executive director of the board which includes:

- a. ~~the~~ The full name, address, telephone number, title and signature of the reporter;
- b. ~~the~~ The full name, address, and telephone number of the person who holds a license, certificate or authorization issued by the board;
- c. ~~a~~ A concise statement of the circumstances under which the termination, nonrenewal, or resignation occurred;
- d. The date action was taken which necessitated the report, including the date of disciplinary action taken, nonrenewal or termination of a contract for reasons of alleged or actual misconduct, or resignation of a person following an incident or allegation of misconduct as required under Iowa Code section 272.15(1), or awareness of alleged misconduct as required under Iowa Code section 272.15(2); and

e. ~~any~~ Any additional information or documentation which the reporter believes will be relevant to assessment of the report pursuant to subrule 11.37(4).

11.37(2) *Timely reporting required.* The report required by this rule shall be filed within ~~60~~ 30 days ~~of the date of local board action on the termination or resignation~~ of the date action was taken which necessitated the report or within 30 days of an employee becoming aware of the alleged misconduct under Iowa Code section 272.15(2).

11.37(3) *Confidentiality of report.* Information reported to the board in accordance with this rule is privileged and confidential, and, except as provided in Iowa Code section 272.13, is not subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than the respondent and the board and its employees and agents involved in licensee discipline, and is not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline.

11.37(4) *Action upon receipt of report.*

a. Upon receipt of a report under this rule, the executive director of the board shall review the information reported to determine whether a complaint investigation should be initiated.

b. In making this determination, the executive director shall consider the nature and seriousness of the reported misconduct in relation to the position sought or held, the time elapsed since the misconduct, the degree of rehabilitation, the likelihood that the individual will commit the same misconduct again, and the number of reported incidents of misconduct.

c. If the executive director determines a complaint should not be initiated, no further formal action will be taken and the matter will be closed.

d. If the executive director determines a complaint investigation should be initiated, the executive director shall assign the matter for investigation pursuant to rule 282—11.5(272).

11.37(5) *Proceedings upon investigation.* From the time of initiation of an investigation, the matter will be processed in the same manner as a complaint filed under rule 282—11.4(17A,272).